

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID DEITZEL

Plaintiff,

v.

SPRINGFIELD TERMINAL RAILWAY
COMPANY

Defendant.

CIVIL ACTION

NO. 03-12560-RGS

**JOINT MOTION TO FURTHER EXTEND DISCOVERY FOR THE DESIGNATION OF
EXPERTS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(a)(2)(b)**

NOW COME the parties in the above-entitled matter and respectfully request this Honorable Court extend the deadlines for expert disclosure pursuant to F.R.C.P. 26(a)(2)(b) for the following reasons:

1. On May 6, 2005, the Court entered an Order granting Plaintiff's Motion to Extend Discovery for the Designation of Experts Pursuant to Federal Rule of Civil Procedure 26(a)(2)(b) and extended the deadlines by ninety (90) days.
2. F.R.C.P. 26(a)(2)(b) requires, inter alia, that a witness who is retained or specifically employed to provide expert testimony provide a written report prepared and signed by the witness which shall contain a complete statement of all opinions to be expressed and the basis and reasons therefore, and any data or other information considered by the witness informing the opinions. In addition, F.R.C.P. 26(a)(2)(b) requires a listing of any other cases in which the expert witness has testified as an expert at trial or by deposition within the preceding four (4) years.
3. Plaintiff's designated expert witnesses are treating physicians Dr. John Babineau and Dr. Sidney N. Paly.

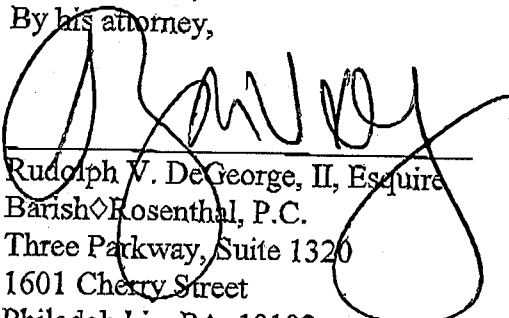
4. Although Dr. Babineau and Dr. Paly have testified as an expert witness over the last four (4) years, neither physician keeps a list of those cases, nor are they able to recreate such a list from their records.

5. If the Court precludes Dr. Babineau and/or Dr. Paly from testifying at trial because of their failure to provide the aforementioned list, Plaintiff will be precluded from presenting any evidence as to his injuries, causation, or prognosis.

6. Given the foregoing circumstances, Plaintiff must retain an expert who will be able to provide such a list, in accordance with F.R.C.P. 26(a)(2)(b).

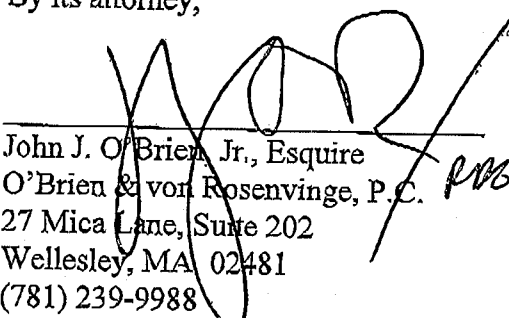
WHEREFORE, the parties hereby request that the May 6, 2005 Scheduling Order be amended to extend all deadlines for ninety (90) days, and further request that the deadline for filing dispositive motions be extended to December 31, 2005.

The plaintiff,
David Deitzel,
By his attorney,



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The defendant,
Springfield Terminal Railway Co.
By its attorney,



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